



June 13, 2007

VIA ELECTRONIC FILING

Marlene M. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

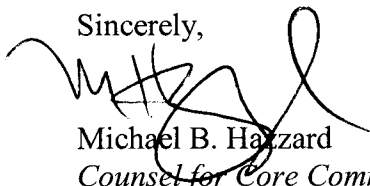
**Re: Notice of *Ex Parte* Meeting on behalf of Core Communications, Inc. in
CC Docket No. 01-92 and WC Docket No. 06-100**

Dear Ms. Dortch:

I hereby submit this notice of *ex parte* meetings held separately on June 12, 2007 between Core Communications, Inc. ("Core") and the following legal advisors: John Hunter, Chief of Staff and Senior Legal Advisor for Wireline Issues to Commissioner McDowell and Scott Deutchman, Competition and Universal Service Legal Advisor to Commissioner Copps. Bret Mingo, Chris Van de Verg, Pat Williams and I attended the meeting on behalf of Core. During the meeting, we discussed Core's pending forbearance petition related to rate regulation pursuant to sections 251(g) and 254(g) of the Communications Act of 1934, as amended.

The attached document, which served as the basis for discussion, was distributed during the meeting with John Hunter.

Sincerely,



Michael B. Hazzard
Counsel for Core Communications, Inc.

Attachment

cc: John Hunter (via electronic mail)
Scott Deutchman (via electronic mail)

Core Communications, Inc.

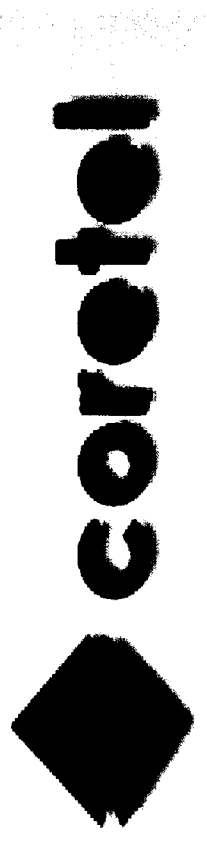
Ex Parte

Dockets 06-100 and 01-92

June 12, 2007



Rate Unification Is The Commission's Stated Goal



Background & Caveats

- Core filed its petition on April 27, 2006
- Section 10's one-year statutory deadline lapsed on April 27, 2007 without a Commission order extending the deadline or explaining why such an extension is "necessary"; accordingly, Core's view is that its petition was "deemed granted" at the expiration of the one-year deadline
- WCB issued an order on "delegated authority" extending the deadline; Core has filed an application for review, which is pending
- Core preserves and does not waive or otherwise modify its view that the statutory deadline has lapsed
- Past Commission precedent (*e.g.*, *Fones4All*) suggests that Commission will issue an order addressing Core's petition, and if so, the Commission should grant Core's request
- Section 10 requires the Commission to take reviewable action (*e.g.*, release an order resolving the petition) prior to the expiration of the statutory deadline to avoid operation of the congressional remedy
- To the extent the Commission takes another view, it should say so; this case presents the fourth or fifth opportunity for the Commission pass on this issue



Core's Forbearance Request

- Core seeks Commission forbearance from:
 - “**rate regulation** preserved by section 251(g)” (petition at 1, emphasis added)
 - “rate averaging and integration required by section 254(g)” (*id.*)
- Deregulatory, easy to administer, and fair
- Fully consistent with 11 years of Commission decisions and stated intercarrier compensation reform goals
- The same cannot be said for “Missoula” or other intercarrier compensation reform efforts, including “Phantom Traffic”
- Solves “Iowa Problem” by allowing pass-through of access charges

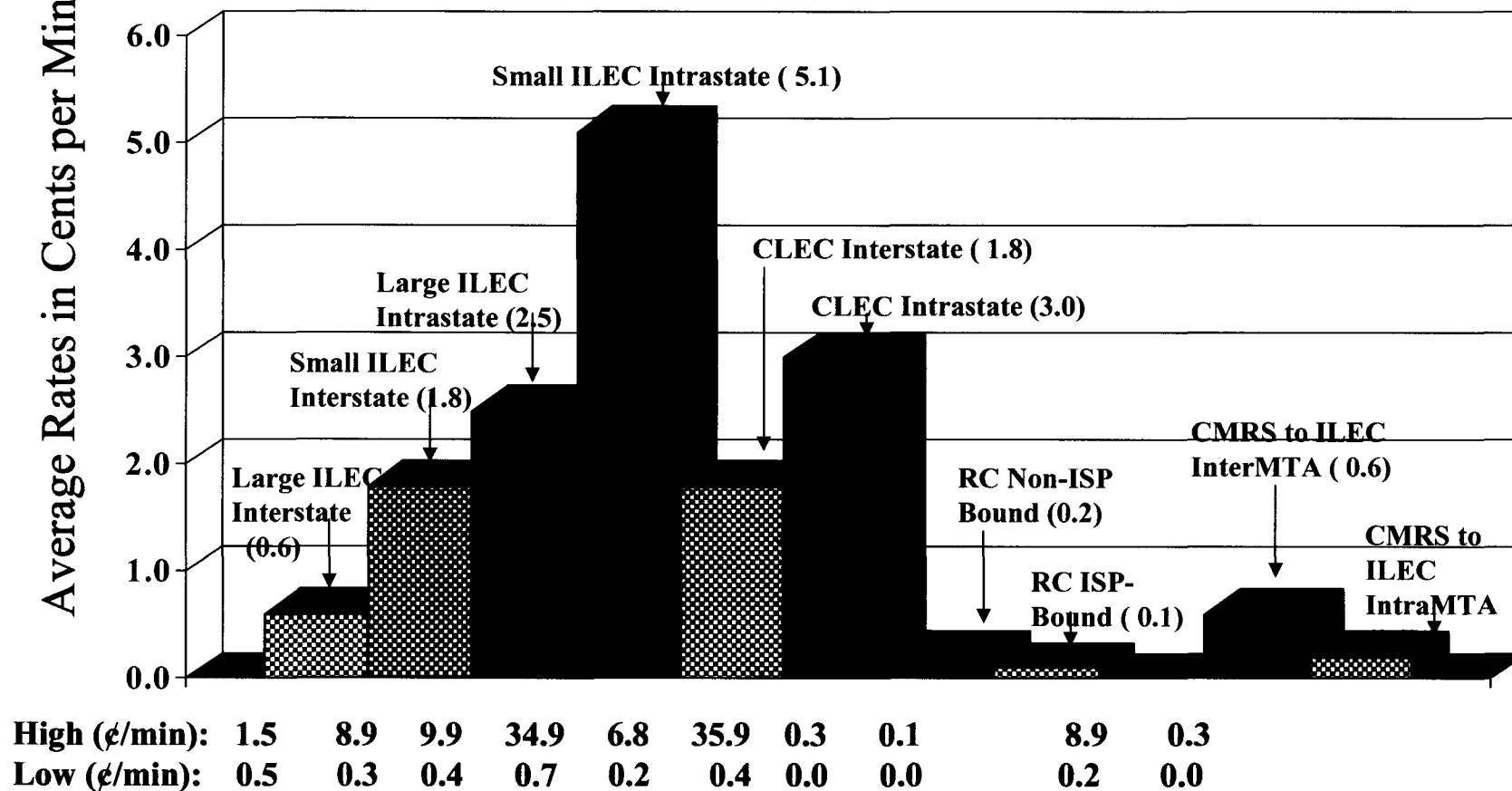


Arbitrary, Outdate Regulation Persists

- Arbitrary regulation has perpetuated wildly different rates for the identical functionality – traffic termination, the cost of which does not vary by traffic type or geography
- FCC consistently has found that termination costs are same for all traffic
 - 1996 Local Competition Order
 - “[T]ransport and termination of traffic ... involves the same network functions [and] the rates ... for transport and termination of local traffic and ... long distance traffic should converge”)
 - 2001 ISP Remand Order
 - A “[local exchange carrier generally will incur the same costs when delivering a call to a local end user as it does delivering a call to an ISP”
 - The “record developed in response to the Intercarrier Compensation NPRM ... fail[ed] to establish any inherent differences between the costs on any one network of delivering a voice call to a local end-user and a data call to and ISP”
- Rate averaging/integration perpetuates outdated intercarrier comp regulations (e.g., Iowa)



Intercarrier Compensation Rates



Rate Disparities Create Regulatory Arbitrage

- No question that cost of termination does not vary by geography/jurisdiction
- Yet rates are materially different based on notions of geography/jurisdiction
- All carriers naturally want to “buy low” and “sell high”
- Existing regulatory categories make this possible for some
- Unification is the Commission’s stated goal



The FCC's Stated Unification Principles

- In its original unification NPRM from April 2001, the FCC indicated it would unify rates using bill and keep
- In its February 2005 FNPRM, the FCC abandoned bill and keep, and announced the following unification principles:
 - Encourage efficient use of and investment in telecommunications networks
 - Preserve universal service support
 - Create a technologically and competitively neutral system
 - Require minimal regulatory intervention and enforcement
- Core's petition is the **ONLY** plan that satisfies these principles



Core's Forbearance Request

- Core's petition seeks industry-wide forbearance from:
 - 251(g) **rate regulation**
 - preserves antiquated, non-cost based access charge system
 - a primary source of disparate rates for identical functionality
 - 254(g) rate averaging and integration
 - precludes cost recovery (including access charge flow-through)
 - creates implicit subsidies
 - the **primary source of trouble the Iowa cases** (\$0.13 per minute??); carriers can't flow termination costs through
- Both provisions limit 251(b)(5), which by its terms applies to all telecommunications



Core's Petitioner Is Proper

- Present application of 251(g) and 254(g) rate regulation harms Core
 - Asymmetry of 251(g) and 251(b)(5) rate regulations puts Core in the position where it is forced to collect low termination rates but pay high rates
 - 254(g) limits the ability of Core to deploy new services, as it prevents Core from recovering costs that result from immensely varying termination charges (\$0.0007 - \$0.13) for the **EXACT SAME FUNCTION**
 - Grant of Core's petition would eliminate these harms by unifying intercarrier compensation regimes and allowing reasonable cost recovery
- Commission **must** address forbearance petitions on the merits, even if request relates to regulations that “may or may not” apply to the telecommunications carrier or telecommunications service at issue. *AT&T v. FCC*, 452 F.3d 830, 834 (DC Cir. 2006)
- Industry-wide application of a forbearance grant is permissible. *Petition of Core Communication, Inc. for Forbearance Under 47 U.S.C. § 160(c) from Application of the ISP Remand Order*, Order, 19 FCC Rcd 20179 (2004), *aff'd*, *In re: Core Communications, Inc.*, 455 F.3d 267 (DC Cir. 2006)



Forbearance Is Appropriate

- Commission forbearance from section 251(g) rate regulation and section 254(g) rate averaging/integration would clear out the regulatory underbrush
- Section 251(b)(5)'s **rate** system would apply to all telecommunications unencumbered
 - consistent with Commission's stated principles
 - eliminate the current kluge of rate categories
 - eliminate costs associated with maintaining the existing system (*e.g.*, trunking, billing, call rating, "phantom traffic" issues)
 - maintain important state commission role (252(d) pricing)
 - simple to administer (rates exist)
- No affect on **non-rate** aspects of 251(g)



Forbearance Is Appropriate

- Filings of Alaska and Hawaii demonstrate forbearance from 254(g) is appropriate (*see ex parte* Apr. 9, 2007)
 - They recognize that 254(g) as enforced creates implicit subsidies
 - Their claims that carriers are not abiding by rate integration requirements cut in favor of forbearance, not against it
 - If they had an issue, then a harmed carrier (or consumer) should file a complaint, but no one has done so
- The rates cited by Alaska and Hawaii are low by any standard, and demonstrate the competitive rates are available to consumers, even in instances where they claim carriers are not abiding by rate averaging/integration requirement



251(g) – Sprint-Nextel Comments

- The only wireless carrier to file comments
 - “There can be no dispute that the existing agglomeration of intercarrier compensation mechanisms is irreparably dysfunctional, causing severe competitive distortions, generating hundreds of millions of dollars of billing disputes, ... resulting in uneconomic pricing and investment decisions.” Sprint Nextel Comments at 2.
 - “Sprint Nextel emphatically supports Core’s call for reform” and “endorses Core’s recommendation that the Commission replace [the] irrational mix of intercarrier compensation schemes with a unified system based on Section 251(b)(5) reciprocal compensation arrangements.” *Id.*
 - “... **Forbearance now seems to be the only tool available** to break the logjam and achieve broad, much-needed reform.” *Id.*, 3. (emphasis added)
- All of these comments are true now more than ever



254(g) – Broad Support

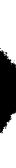
- Broad and diverse support for 254(g) forbearance
 - “The continued mandatory enforcement of rate averaging and integration rules ... skews economic signals by preventing cost-based pricing and perpetuating competitive imbalances.” Sprint Nextel Comments at 6.
 - “The market, rather than legislative or regulatory mandates, best ensures that rural long distance customers are not charged unreasonable, unjust, or unreasonably discriminatory rates.” AT&T Comments at 5.
 - “In [certain] situations, forbearance is warranted because the rigid enforcement of the rate averaging and rate integration rules discriminates against nationwide long-distance carriers, undermines competition in urban markets, and ultimately disserves both consumers and the public interest.” Verizon Comments at 16.



The Commission Should Grant Core's Request

- Six years of filings in CC 01-92 and the Commission's own findings demonstrate that unifying intercarrier compensation rates and enabling network cost recovery through forbearance is appropriate
- Enforcement of 251(g) and 254(g) **rate** regulation is not necessary to:
 - Ensure that carriers or a carrier's service is just and reasonable, 10(a)(1)
 - Protect consumers, 10(a)(2)
 - Serve the public interest, 10(a)(3)
- Forbearance similarly would promote competition, 10(b)





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